

CALENDAR NO.

1. PLAINTIFF ORAL ARGUMENT: MOTION TO COMPEL

THIS MATTER HAVING COME BEFORE THE COURT THIS DATE, THE COURT ORDERS:

- ☐ DISPOSES OF ENTIRE ACTION ☐ DOES NOT DISPOSE OF ENTIRE ACTION
☐ PREVAILING PARTY TO PREPARE AND FILE FORMAL ORDER PURSUANT TO CRC 391.
☒ OTHER *The Court continues the matter until April 17, 2006.*
TENTATIVE RULING:

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The Court recognizes the moving parties right to seek limited discovery concerning the value of the proposed settlement. (*Wershba v. Apple Computer, Inc.* (2001) 91 Cal.App.4th 224, 241) The Court also recognizes its authority to exercise its discretion in this area. Of primary concern is the ability of the Court to ultimately determine whether the class settlement is fair, adequate and reasonable. (*Wershba, supra* at 244) On the grounds that the Court needs the information to make its determination concerning the settlement, the moving parties assert the requested discovery is critically necessary. The Court, however, is unpersuaded.

Dated: 03/23/06

JUDGE/COMMISSIONER OF THE SUPERIOR COURT

Second, the Court finds significant portions of the requested information may constitute work product or privileged documents unavailable for purposes of discovery.

To the extent that Sempra has made public statements concerning the value of the settlement, that information may be useful to the moving parties. If Sempra intends to submit evidence on the motion to approve the class settlement concerning its value of the settlement, Sempra must make that information available to class members and it would be subject to discovery. Otherwise, there appears to be no authority, and the moving parties cite to no authority to require Sempra to disclose its opinion concerning the value of the settlement.

The moving parties encourage the Court to require the requested discovery in light of the broad releases expressed in the settlement agreement. However, to compel Sempra to produce potentially burdensome discovery without inherent resulting value is not justified by class members' decision to release their future rights. In fact, such discovery may chill future settlements if settling parties are required to provide discovery detailing their opinions as to the value of any settlements. The Court is satisfied at this time, that opinions and information concerning the value of the settlement will be made sufficiently available to those weighing the decision to release their rights as expressly detailed by the agreement in exchange for the benefits of the proposed settlement.

To conclude, the Court is concerned that the requested discovery (1) is unduly burdensome, and may be protected work product and privileged; (2) may chill future class action settlements; (3) is of little or no value to the Court's assessment of the proposed settlement; (4) is equally available from Plaintiffs, and other class members.

MAR 23 2006

Ronald J. Proger

DATE

JUDGE OF THE SUPERIOR COURT

